

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed November 16, 2005. Claims 1-2, 4-8, 10-15, 17-22, and 24-27 were pending in the present application. This response amends claims 1, 4, 5, 7, 13, 15, 19, and 25, and adds dependent claims 28-30, leaving pending in the application claims 1-2, 4-8, 10-15, 17-22, and 24-30. Reconsideration of the rejected claims and consideration of the newly presented claims is respectfully requested.

Independent claims 1, 5, 13, and 25 have been amended to recite an update indicator in the token, such as was previously recited in independent claims 7 and 20. As such, Applicants respectfully request that these amendments after final be entered and considered.

I. Rejection under 35 U.S.C. §102

Claims 1-2, 4-8, 10-15, 17-22, and 24-27 are rejected under 35 U.S.C. §102(e) as being anticipated by *Ginter* (US 6,427,140). Applicants respectfully submit that *Ginter* fails to disclose or suggest all elements of these claims.

For example, Applicants' claim 1 recites a system for managing token image replacement in a portable token, including:

a token acceptance device configured to receive the portable token, **the portable token having a current token image and an update indicator**, wherein the portable token is configured to be used in financial transactions; and
a server configured to communicate with the portable token via the token acceptance device;
wherein **insertion of the portable token into the token acceptance device causes the server to check the update indicator to determine whether the portable token is to be updated**, and upon receiving an indication that the token image on the portable token is to be updated, the server retrieves a backup token image for the portable token and uploads the backup token image to the portable token via the token acceptance device to replace the current token image on the portable token, the backup token image comprising updated financial or loyalty transaction information for the portable token

(*emphasis added*). Such limitations are not disclosed or suggested by *Ginter*.

Ginter discloses a "virtual distribution environment" ("VDE") that "secures, administers, and audits electronic information use" (col. 2, lines 24-27). The VDE can include use of a portable appliance such as a "smart card" that can be used with receptacles at personal, public, and commercial establishments for applications such as commercial applications (col. 231, line 51- col. 232, line 29). The smart card can communicate with a commercial establishment, which

in turn can communicate with other organizations such as a clearinghouse or clearinghouse agent that can maintain a transaction history and other information that can be used to reconstruct the information on the smart card (col. 234, line 21-col. 235, line 236). The information on the smart card can be restored in the event of "damage to the files, or other occurrences that may damage or corrupt some of all of the secure database," as well as where an original card is damaged and needs to be replaced or reset (col. 166, lines 16-32; col. 234, line 63-col. 235, line 3).

Applicants' claim 1, on the other hand, uses an "update indicator" in a token, such as a smart card, which allows a server to automatically determine that the token needs to be updated upon inserting the token into a token acceptance device in communication with the server. As set forth in the present application, there are occasions such as the sending of a replacement card wherein "transactions conducted with the old card often occur during the transit period," such that "the most recent transaction information would not be captured on the replacement card" ([0004]-[0006]). The inclusion of an "update indicator" allows the provider of the smart card, for example, to set the update indicator such that when the new smart card is first placed into a token acceptance device, the system knows to automatically update the information on the smart card ([0008]; [0017]-[0021]).

Ginter does not disclose or suggest such an update indicator. *Ginter* discloses, as discussed above, transmitting backup information to a smart card in the event that the data on the card is damaged or otherwise needs to be replaced. *Ginter* does not disclose or suggest a token including a settable indicator informing the system that it should check for a necessary update to the token upon, for example, first use of the token with the system. Without such an update, a new card might include only information that was current up to the date of mailing of that card, which could result in transactions or other processes being allowed that otherwise would be denied if the card contained current information.

In addressing the indicator limitation, such as was previously recited in claims 4, 10, 15, and 22, the Office Action states on page 4 that "*Ginter* teaches means of permitting the user access to certain information content." Applicants respectfully submit that such teaching would not anticipate the update indicator of Applicants' claim 1. Further, it is respectfully submitted

that the section cited in the Office Action (specifically col. 182, lines 5-15 and more generally columns 179-182) relates to "event-driven content-based methods," wherein specific methods can be triggered to determine whether "processing based on an event will be allowed" (col. 182, lines 4-17). This is very different from an update indicator contained in a token that causes a server to automatically check for a necessary update to the token, as recited in claim 1.

As *Ginter* fails to disclose or suggest a "portable token having a current token image and an update indicator" where "insertion of the portable token into the token acceptance device causes the server to check the update indicator to determine whether the portable token is to be updated," *Ginter* cannot anticipate Applicants' claim 1 or dependent claims 2, 4, and 6.

Applicants' other independent claims also recite limitations that are not disclosed or suggested by *Ginter* as discussed above. For example, Applicants' claim 5 recites a "token having a token image and an update indicator" where "insertion of the token into the token acceptance device causes the server to check the update indicator to determine whether the token is to be updated." Applicants' claim 7 recites "a portable token having a current token image and an indicator used to indicate whether the current token image is to be updated." Applicants' claims 13 and 18 recite "examining an update indicator on a portable token to determine whether a current token image on the portable token is to be updated." Applicants' claim 20 recites "examining an indicator in a portable token to determine whether a token image in the token is to be updated." Applicants' claim 25 recites "examining an update indicator in the first portable token to determine whether a current token image in the first portable token is to be updated." As discussed above, such limitations are neither disclosed nor suggested by *Ginter*. *Ginter* therefore cannot anticipate independent claims 5, 7, 13, 18, 20, or 25, or the claims that depend therefrom. Applicants therefore respectfully request that the rejection with respect to claims 1-2, 4-8, 10-15, 17-22, and 24-27 be withdrawn.

II. Amendment to the Claims

Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the specification and do not add new matter to the specification.

III. Newly Presented Claims

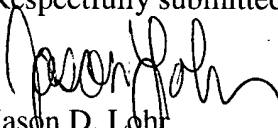
Dependent claims 28-30 have been added to recite that loyalty program information is contained in the token images for those embodiments. These claims are supported by the specification and do not add new matter. Applicants therefore respectfully request entrance and consideration of newly presented claims 28-30.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. As the date to prompt an Advisory Action was a Federal holiday, and this Amendment is mailed the following day, Applicants respectfully submit that the Advisory Action date was met under MPEP §§710.05 and 706.07(f) and request an Advisory Action, if necessary, in response to this Amendment.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


Jason D. Lohr
Reg. No. 48,163

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
Attachments
JDL:sak
60677570 v1